

UNITED STATES PATENT AND TRADEMARK OFFICE

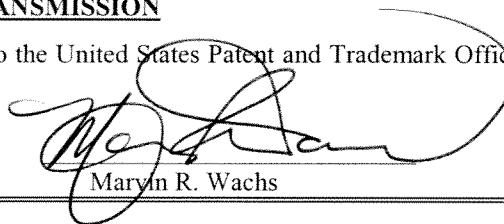
PATENT

APPLICANT:	Petros Tsipouras <i>et al.</i>	GROUP ART UNIT:	1631
APPLICATION SERIAL NO.:	10/091,360	EXAMINER:	CLOW, LORI A. Tel. 571-272-0715
FILING DATE:	March 4, 2002	ATTORNEY DOCKET NO.:	IK-110.3(C) 016853-0044
TITLE OF APPLICATION:	METHOD AND APPARATUS FOR COMPUTER CONTROLLED RARE, INCLUDING FETAL CELL, BASED DIAGNOSIS		

Confirmation No. 1541CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office by EFS filing on:

Date: July 9, 2009



Marylin R. Wachs

**SUBSTITUTE RESPONSE TO THE NON-FINAL OFFICE ACTION
OF NOVEMBER 28, 2008**

I. INTRODUCTORY COMMENTS

• REQUEST FOR CONSIDERATION OF RESPONSE

This “SUBSTITUTE RESPONSE TO THE NON-FINAL OFFICE ACTION OF NOVEMBER 28, 2008” replaces the previously submitted response dated May 28, 2009 and replies to the outstanding office action in this case, responding to every ground of objection and rejection set forth in such office action. This response is a bona fide attempt to advance the application to final action. In light of the amendments (if any) and remarks set forth below, Applicant requests that the Examiner reconsider the Examiner’s stance with respect to the patentability of the claims and Applicant seeks further examination of the application. Applicant hereby requests that any objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated.

- Page 2 of 15 -

- REQUEST FOR EXTENSION AND PAYMENT OF FEES

An extension of three months in the time to respond to the office action is requested. Applicant hereby provides the Commissioner with the authority to debit Kelley Drye & Warren's Deposit Account No. 11-0404 for any necessary fees. While not believed applicable in such case, Applicants note 37 C.F.R. §1.7 which states “[w]hen the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday or a Federal holiday.”

- LOCATION OF SPECIFIED SECTIONS FOR SCANNING OF THIS DOCUMENT

SECTIONS OF DOCUMENT	LOCATION OF SECTION
I. INTRODUCTORY COMMENTS AND INTERVIEW SUMMARY	Pages 1 - 4
II. AMENDMENTS TO THE SPECIFICATION	Pages 5
III. AMENDMENTS TO THE CLAIMS	Pages 6 - 9
IV. AMENDMENTS TO THE DRAWINGS	Pages 10
V. REMARKS/ARGUMENTS	Pages 11 - 14
VI. APPENDIX	Pages 15

- REQUEST FOR ENTRANCE OF AMENDMENTS AND CONSIDERATION OF ARGUMENTS

Applicant respectfully requests entrance of the amendments (if any), and consideration of its arguments set forth below. Amended/new claims that may be construed as more limiting in scope than the scope of any of the claims prior to amendment/cancellation/addition should not be construed as an abandonment of any subject matter no longer claimed, nor should the

- Page 3 of 15 -

amended/new claims be construed in any manner to waive or limit the equivalent structures of any element recited in such claims that would otherwise be available under the Doctrine of Equivalents with respect to the unamended/canceled claims.

Amendment/cancellation/addition of the claims is not in any manner intended to, and should not be construed to, waive Applicant's right in the future to seek protection for the subject matter claimed in prior claims, or to seek protection for similar matter in any continuation, divisional, continuation-in-part, RCE, CPA or any other application claiming priority to or through the present application. Applicants expressly reserve the right to file applications directed to the subject matter covered by any canceled or previously submitted claim, as well as any uncovered subject matter disclosed in the specification.

- SUMMARY OF INTERVIEW WITH EXAMINER IN ACCORDANCE WITH 37 C.F.R.
§ 1.133

Applicant and his representative extend their appreciation to Examiner Dr. Lori Clow for the in-person interview provided on June 22, 2009 at 2pm in the Remsen Building at the United States Patent and Trademark Office. At the meeting was Dr. Triantafyllos Tafas, CTO of Ikonisys, assignee of the patents, Dr. Steven Moore, outside patent counsel for Ikonisys, and Examiner Dr. Lori Clow.

During the meeting the claims of U.S. Patent Application Serial Nos. 10/091,360, 11/272,613 and 11/273,126 were discussed. The meeting began with Dr. Tafas showing, via his laptop computer, web pages containing information about the company and its products. Specific prior art discussed with respect to U.S. Patent Application No. 10/091,360 was U.S. 2004/0072364 to Tisone et al. with differences being noted between the claims and the Tisone et al. reference in particular related to programmed pattern dispensing. With respect to U.S. Patent Application Nos. 11/272,613 and 11/273,126, U.S. Patent No. 6,169,816 to Ravkin and U.S. Patent No. 6,136,540 to Tsipouras were discussed. Differences between the claimed embodiments of U.S. Patent Application Nos. 11/272,613 and 11/273,126 with the Ravkin and Tsipouras references were emphasized, in particular with respect to method steps related to the detection and processing of information pertaining to both a diagnostic and identification label.

- Page 4 of 15 -

The Examiner indicated that that Applicant's suggested amendments to the claims of U.S. Patent Application Serial No. 11/272,613 appeared to overcome the prior art of record, and thus felt the claims would be allowable. The Examiner likewise suggested Applicant's argument related to the differences between the claimed embodiments in U.S. Patent Application No. 10/091,360 and the disclosure of US 2004/0072364 to Tisone et al. also appeared to overcome the pending rejections, and that the claims would be allowable. However, the Examiner suggested that Applicant's argument in regard to US 2004/0072364 to Tisone et al. be streamlined to urge major distinctions between such art and the claimed embodiments. In respect of U.S. Patent Application Serial No. 11/273,126, the Examiner suggested that a further analysis of the claims would be required in light of *In re Bilski*, and thus no indication was made with respect to allowability.